(3)

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CWP(S)2075/03 OA 4736/2000

BEFORE THE M.P. STATE ADMINISTRATIVE TRIBUNAL BENCH
RAIPUR.

O.A. No. 18 /97

APPLICANT : Smt. Sadhana Pandey Age 42 years old W/o Shri O.P. Pandey Resident House No. M-12 Yadu Nandan Nagar, Bilaspur M.P.

Public Health Tutor General Nursing Training Centre, Bilaspur (M.P.)

Versus.

RESPONDENTS : 1. State of M.P. Through Commissioner/ Director Health Services, Satpuda Bhawan, Bhopal (M.P.).

2. Dr.(Smt.) Anusua Parastey, Joint Director, Health Services, Bilaspur Division, Bilaspur (M.P.).

3. [redacted], Civil Surgeon/Superintendent Sardar Wallabh Bhai Patel Hospital, Bilaspur (M.P.).

DETAILS OF THE APPLICATION

1. Particulars of the Applicant :-

As stated in the Cause title above.

2. Particulars of the Respondents :-

As stated in the Cause title above.

3. Particulars of the order against which the application is made :-

Claim for posting at Bilaspur vide State List order No. 9/Nursing/Cell/1/95/571 dated 10.7.97. [ANN-13]

4. JURISDICTION OF THE TRIBUNAL :

The applicant declares that the subject matter of the order against which he wants redressal is within the Jurisdiction of the Hon'ble Court.

Pandey

Contd..2..

(85)

HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION NO.2072/2005

Smt. Sadhana Pandey

Vs.

State of (M.P.) C.G. & Others.

Post for 8 /3/2006

Sd/-
Fakhruddin
Judge

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HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION NO.2072/2005

Smt. Sadhana Pandey

Vs.

State of M.P.(C.G.) & Ors.

Shri Ashish Shrivastava, counsel for the petitioner.

Shri G.K. Beriwal, Dy. Advocate General, for the State.

O R D E R

Per Hon. Fakhruddin, J:

Heard learned counsel for the parties.

2. The petitioner filed the instant petition before the State Administrative Tribunal on 3/1/1998, which remained pending and the Tribunal having been abolished it has been transferred to this Court. The relief claimed is that the petitioner be allowed to join her duties pursuant to the order dated 10/7/1997 (Annex.13) and be paid salary for the period 1/3/1995 to 31/7/1995. She be also paid salary from 1/1/1997 to date to be paid to her. Seniority be also counted from the date of her appointment. Written statement was filed by the respondents on 24/6/1998, copy of which was supplied to the applicant's counsel on 4/7/1998. The applicant filed the rejoinder on 24/7/1998 and thereafter additional affidavit was filed on her behalf.

3. During the pendency of the instant petition, the petitioner has filed another writ petition bearing W.P.No.3486/2003, but because of the abolition of the Tribunal since the original petition came to this Court and numbered as writ petition, the said writ petition bearing W.P. No.3486/2003 was not pressed and withdrawn and that is how the present petition.

4. Learned counsel for the petitioner submits that the petitioner was appointed as Lady Health Visitor, Government Hospital, Bilaspur on 29/2/1980. Consequent upon the selection made by the State Government, she appeared in the Public Health Tutor Examination and passed in July 1991 vide Annex.3 but worked in the capacity of Lady Health Visitor till 8/2/1995. Learned counsel further submits that vide

order dated 8/2/1995 (Annex.4) passed by the Directorate, she was transferred as Public Health Tutor in Woman Health Workers Training Centre, Jagdalpur. Her name appears at serial No.25 in the said order. She was relieved on 28/2/1995 vide Annex.5. The petitioner submitted the representations Annex.6a and 6b mentioning about the difficulties that her husband is working in Railway Mail Service at Bilaspur and she be posted at Bilaspur. Learned counsel also submits that vide order dated 20/7/1995 (Annex.7), the petitioner was posted in Shahri Gandi Basti Unmoolan on the vacant post, as per the direction issued by the Directorate to the Chief Medical and Health Officer, Bilaspur to post her at Shahri Gandi Basti Unmoolan. It is submitted that as per Annex.7a, the direction was issued to the petitioner to join at Shahri Gandi Basti Unmoolan and she joined there vide Annex.8. It is further submitted that as per Annex.9 dated 31/1/1997, the petitioner was posted at Primary Health Centre, Sonhat but she was not relieved. It is also submitted that on 7/2/1997 vide Annex.10, promotion order was passed on the post of Nursing Sister in the pay-scale of Rs.1400-2340/- with a direction to take charge till 28/2/1997. The petitioner's name is at serial No.42 in the said order (Smt. S. Pandey, CMO, Bilaspur). On 20/2/1997, vide Annex.10a, an order was issued from the Directorate to the Chief Medical & Health Officer, Bilaspur that the amendment has been made in the order dated 7/2/1997 and the petitioner after promotion to the post of Nursing Sister is posted under Chief Medical & Health Officer, Bilaspur. It is also submitted that on 28/2/1997 vide Annex.10b, the Chief Medical & Health Officer, Bilaspur granted permission to the petitioner to join at District Hospital, Bilaspur and the petitioner submitted the joining vide Annex.10c. Thereafter, vide order dated 2/4/1997 (Annex.11) passed by the Chief Medical & Health Officer, Bilaspur, the petitioner was informed that her promotion order as well as the order dated 28/2/1997 have been cancelled and from the afternoon of 3/4/1997 she would be relieved and as such she should report to Sonhat as per order dated 31/1/1997. The petitioner submitted the representation (Annex.12) to the Minister concerned and vide order dated 10/7/1997 (Annex.13) issued by the Directorate, it was ordered that the order dated 8/2/1995 passed by the Directorate is partly amended and the petitioner is posted with immediate effect at General Nursing Training Centre, Bilaspur in place of Woman Health Workers Training Centre, Jagdalpur.

5. The petitioner submitted her joining on 31/7/1997 vide Annex.14. Thereafter, on 4/8/1997 vide Annnex.15, the Civil Surgeon-cum-Superintendent of Main Hospital, Bilaspur, wrote a letter to the petitioner that by amendment of order dated 8/2/1995, you have been posted at General Nursing Training Centre, Bilaspur but you have neither furnished the information as to where you were posted from 8/2/1995 till date nor submitted the relieving order and therefore since the formalities are not completed, your joining is not accepted and before joining you should submit your relieving order. The petitioner vide Annex.16 dated 6/8/1997 submitted that vide order dated 2/4/1997 (Annex.11) passed by the Chief Medical & Health Officer, Bilaspur, the petitioner has been relieved from the afternoon of 3/4/1997. She submitted the detailed representation stating everything alongwith the documents. Again, she submitted all the informations on 18/8/1997 and 23/8/1997 vide Annex.17a and 17b respectively.

6. Alongwith the rejoinder, the petitioner also submitted the document for grant of leave vide Annex.18 to the effect that she was transferred but could not join from 1/3/1995 to 31/7/1995. The petitioner has also submitted the document Annex.19 dated 14/2/1997 alongwith the additional affidavit, whereby alongwith others she has been relieved from Shahri Gandi Basti Unmoolan.

7. In the written statement, it is stated that the applicant was absent from 1/3/1995 to 31/7/1995 and it is on 27/11/1996 she moved two applications for grant of earned leave from 1/3/1995 to 8/6/1995 and from 9/6/1995 to 31/7/1995. It is further stated that in the order dated 7/2/1997 [Annex.10], the name of one Smt. Shakuntala Pandey was mentioned at serial No.42, who has already expired on 1/2/1987 and the applicant misrepresented herself as she has been promoted. It is also stated that the petitioner Smt. Sadhna Pandey with connivance of some employees of the department joined in the office of Chief Medical & Health Officer, Bilaspur whereas previously she had been relieved to join at Primary Health Centre, Sonhat. In para 15 of the written statement, it has been denied that the petitioner joined at Bilaspur on 31/7/1997 and it is said that she did not produce any relieving order and as such she was not allowed to join. It is also said

that as per the documents enclosed alongwith Annex.16 she has been relieved to joint at Jagdalpur whereas she never joined at that place.

8. Perused the record. So far as the appointment and the posting of the petitioner vide order dated 8/2/1995 is not disputed. But, subsequently the question has been raised about her joining, posting and the orders. The only question raised is that she has not produced the joining certificate. The order passed by the Department is that she was promoted as per Annex.4 dated 8/2/1995 and was transferred as Public Health Tutor in Woman Health Workers Training Centre, Jagdalpur. Her name appears at serial No.25 in the said order. Thereafter, another order of her promotion was passed on 7/2/1997 (Annex.10) wherein her name is mentioned at serial No.42. On 20/2/1997, vide Annex.10a, an order was issued from the Directorate to the Chief Medical & Health Officer, Bilaspur that the amendment has been made in the order dated 7/2/1997 and the petitioner after promotion to the post of Nursing Sister is posted under Chief Medical & Health Officer, Bilaspur. Order dated 20/2/1997 is quoted below:

"संचालनालय स्वास्थ्य सेवायें

मध्यप्रदेश

क्रमांक ६/नर्सिंग/सेल-१/६७/ भोपाल,दिनांक

प्रति,

मुख्य चिकित्सा एवं स्वास्थ्य

अधिकारी बिलासपुर (म०प्र०)

विषय :-श्रीमती साधना पाण्डे स्टाफ नर्स की पदस्थापना के संबंध में।

उपरोक्त विषय में श्रीमती साधना पाण्डे स्टाफ नर्स बिलासपुर द्वारा आवेदन पत्र प्रस्तुत कर निवेदन किया है कि आपके द्वारा उनकी बिलासपुर की गई पदस्थापना मान्य नहीं की जा रही है।

इस संबंध में यह स्पष्ट किया जाता है कि श्रीमती साधना पाण्डेय नर्सिंग सिस्टर के पद पर पदोन्नति उपरांत पदस्थापना मुख्य चिकित्सा एवं स्वा०अधिकारी बिलासपुर के अधिन की गई है जिसका आदेश में सतना के स्थान पर संशोधन कराया था।

कृते/ संचालक चिकित्सा सेवायें

मध्यप्रदेश

पृ०क्र०/नर्सिंग /सेल-१/९७/१०६६-६७ भोपाल,दिनांक २०/२/९७

प्रतिलिपि:- सूचनार्थ एवं आवश्यक कार्यवाही हेतु अग्रेषित।

१- संभागीय संयुक्त संचालक स्वा०सेवायें बिलासपुर।

२- श्रीमती साधना पाण्डेय स्टाफ नर्स द्वारा-सी०एम०ओ०बिलासपुर की ओर उनके आवेदन पत्र दिनांक २०-२-९७ के संदर्भ में सूचनार्थ।

सही/-

कृते/संचालक चिकित्सा सेवायें

मध्यप्रदेश"

9. On 28/2/1997 vide Annex.10b, the Chief Medical & Health Officer, Bilaspur granted permission to the petitioner to join at District Hospital, Bilaspur. Permission dated 28/2/1997 is quoted below:

"कार्यालय मुख्य चिकित्सा ए०वं स्वास्थ्य अधिकारी बिलासपुर म०प्र०

क्रमांक /स्वा०/नर्सिंग/सेल/९७/३७३४ बिलासपुर,दिनांक २८/२/९७

प्रति,

श्रीमती एस०पाण्डे,
स्टाफ नर्स,
शहरी गंदी बस्ती योनना,
बिलासपुर,म०प्र०

विषय :- नर्सिंग सिस्टर के पद पर उपस्थिति।

संदर्भ :- १- संचालक, स्वास्थ्य सेवायें/नर्सिंग/सेल-१/९७/६६७/ भोपाल, दिनांक ७-२-९७

२- संचालक, स्वास्थ्य सेवायें का आदेश क्रमांक /पृ०क्र०/९/ नर्सिंग/सेल-१/९७/१०६६-६७भोपाल,दिनांक २०-२-९७

३- आपका आवेदन दिनांक २८-२-९७

संदर्भित आदेशों के तारतम्य में आपके आवेदन पर छायाप्रति के परिप्रेक्ष्य में आपको आज दिनांक २८-२-९७ को नर्सिंग सिस्टर के पद पर जिला चिकित्सालय बिलासपुर में उपस्थित होने की अनुमति प्रदान की जाती है।

संदर्भित आदेशों के पुष्टिकरण हेतु सक्षम अधिकारी से पत्र व्यवहार किया जा रहा है।

सही/-

मुख्य चिकित्सा एवं स्वास्थ्य अधिकारी

बिलासपुर,म०प्र०

पृ०क्र०/स्था०/नर्सिंग/९७ बिलासपुर, दिनांक

प्रतिलिपिः-

१- सिविल सर्जन सहःमुख्य अधीक्षक,सपचि बिलासपुर की ओर सूचनार्थ एवं आवश्यक कार्यवाही हेतु।

सही/-
मुख्य चिकित्सा एवं स्वास्थ्य अधिकारी
बिलासपुर,म०प्र०"

10. The petitioner submitted the joining vide Annex.10c. Thereafter, vide order dated 2/4/1997 (Annex.11) passed by the Chief Medical & Health Officer, Bilaspur, the petitioner was informed that her promotion order as well as the order dated 28/2/1997 have been cancelled and from the afternoon of 3/4/1997 she would be relieved and as such she should report to Sonhat as per order dated 31/1/1997. The petitioner submitted the representation (Annex.12) to the Minister concerned and vide order dated 10/7/1997 (Annex.13) issued by the Directorate, it was ordered that the order dated 8/2/1995 passed by the Directorate is partly amended and the petitioner is posted with immediate effect at General Nursing Training Centre, Bilaspur in place of Woman Health Workers Training Centre, Jagdalpur. Order dated 10/7/1997 is quoted below:

"संचालनालय स्वास्थ्य सेवायें
मध्यप्रदेश

क्रमांक ९/नर्सिंग/सेल-१/९७/५/११ भोपाल, दिनांक १०/७/९७

<u>आदेश</u>

कार्यालयीन आदेश क्रमांक ९/नर्सिंग/सेल-१/९५/७९७/ दिनांक ८/२/९५ के अनु०क्र० २५ जिसके द्वारा श्रीमती साधना पाण्डे स्टाफ नर्स आई०सी०डी०एस० बिलासपुर की पदोन्नति पब्लिक हेल्थ टयूटर के पद महिला स्वास्थ्य कार्यकर्ता प्रशिक्षण केंद्र जगदलपुर की गई थी, अब उक्त आदेश में आंशिक संशोधन करते हुये श्रीमती पाण्डे की पदस्थापना जनरल नर्सिंग प्रशिक्षण केंद्र बिलासपुर में तत्काल प्रभाव से की जाती है।

सही/-
(शिवराज सिंह)
स्वास्थ्य आयुक्त, म०प्र०

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पृ०क्र०६/नर्सिंग/सेल-१/६७/४७१८२३ भोपाल,दिनांक १०/७/६७

प्रतिलिपिः- सूचनार्थ एवं आवश्यक कार्यवाही हेतु अग्रेषित।

१- निज सचिव, मान०मंत्रीजी लोक स्वास्थ्य एवं परिवार कल्याण म०प्र०शासन, भोपाल।

२- संभागीय संयुक्त संचालक स्वास्थ्य सेवायें बिलासपुर/बस्तर म०प्र०।

३- मुख्य चिकित्सा एवं स्वास्थ्य अधिकारी, बिलासपुर।

४- प्राचार्य, स्वास्थ्य एवं परिवार कल्याण प्रशिक्षण केंद्र, बिलासपुर।

५- श्रीमती साधना पाण्डे,स्टाफ नर्स द्वारा -सी०एम०ओ०बिलासपुर की ओर सूचनार्थ।

सही/-
(शिवराज सिंह)
स्वास्थ्य आयुक्त, म०प्र०"

11. The petitioner submitted her joining on 31/7/1997 vide Annex.14. All these orders have been passed by the higher authorities. On 4/8/1997 vide Annnex.15, the Civil Surgeon-cum-Superintendent of Main Hospital, Bilaspur, made a query from the petitioner that by amendment of order dated 8/2/1995, you have been posted at General Nursing Training Centre, Bilaspur but you have neither furnished the information as to where you were posted from 8/2/1995 till date nor submitted the relieving order and therefore since the formalities are not completed, your joining is not accepted and before joining you should submit your relieving order. The petitioner vide Annex.16 dated 6/8/1997 submitted copy of the order dated 2/4/1997 (Annex.11) passed by the Chief Medical & Health Officer, Bilaspur. Bare perusal of the order dated 2/4/1997 shows that the petitioner has relieved from the afternoon of 3/4/1997. These documents filed alongwith the petition relating to relieving and joining are also available in the department. The petitioner has been just denied of joining. Under the facts and circumstances as discussed hereinabove, the Civil Surgeon-cum-Superintendent of Main Hospital, Bilaspur was not justified in not accepting the joining.

12. The matter is pending since 1997 and now eight years have passed. Since the order dated 8/2/1995 passed by the Directorate is partly amended vide order dated 10/7/1997 (Annex.13) and the petitioner is posted with immediate effect at General Nursing Training Centre, Bilaspur in place of Woman Health Workers Training Centre, Jagdalpur. Apart from this, the petitioner also reported the duties at

Bilaspur. As such, it is directed that the petitioner be allowed to join forthwith at Bilaspur as per order dated 10/7/1997 (Annex.13). She be also allowed to draw her salary.

13. So far as the intervening period is concerned, Counsel for the petitioner submits that he would make a detailed representation raising petitioner's grievances on all aspects before the competent authority. The petitioner may submit a detailed representation before the competent authority, which shall be considered on its own merits in accordance with law. If the grievance remains, the petitioner may avail the remedy in accordance with law.

14. Subject to the directions made hereinabove, the petition stands disposed of.

Sd/-
Fakhruddin
Judge

H/-